

JOHN D. SNAZA; September 17, 2018

1

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF WASHINGTON

3 AT TACOMA

4
5 JOSEPH A. NELSON,
6 individually and as Personal
7 Representative of the ESTATE
8 OF JOEL A. NELSON, and its
9 statutory beneficiaries,

10 Plaintiff,

11 vs.

12 THURSTON COUNTY, a Washington
13 municipality; RODNEY T.
14 DITRICH, individually; JOHN D.)
15 SNAZA, individually; and DOES
16 1 through 15, individually,

17 Defendants.

No. 3:18-cv-05184-RBL



18 VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION

19 OF

20 JOHN D. SNAZA

21 9:02 A.M.

22 SEPTEMBER 17, 2018

23 2674 R.W. JOHNSON BOULEVARD SW

24 TUMWATER, WASHINGTON

25 REPORTED BY: CHERYL O. SPRY, CCR No. 2226



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1 A. It wasn't a reason that was explained to me.
2 One, it was explained, is money. But Sheriff Kimball
3 never told me that, it was some of the chiefs that had
4 told me that.

5 And it's -- being accredited is something that
6 you -- it's something as an executive to be very proud
7 of.

8 Q. But what does it mean, though?

9 A. It means it's something that you hold yourself
10 to a higher standard.

11 Q. So then are you saying that the standards of
12 the Washington Association of Sheriffs and Police Chiefs
13 are standards that Thurston County Sheriff's department
14 is held to?

15 A. Well, we all hold ourselves to a high
16 standard. It -- what the accreditation is -- is a
17 standard that we put on ourselves to be better than as
18 good as we are today.

19 Q. So it's a policy that you've adopted?

20 A. It's -- it's something that I believe as a
21 Sheriff that it's important for us to strive, always
22 keep on striving to be better than what we are today.

23 Q. But isn't it your responsibility to set policy
24 in regards to law enforcement in Thurston County? Isn't
25 that your -- your responsibility?



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1 but -- I don't know if I answered that question
2 appropriately or not.

3 Q. Well, I guess I'll have to ask another
4 question and we'll see.

5 A. I apologize for that.

6 Q. The -- you said there was a presentation on
7 the investigation?

8 A. Once the investigation is completed, there is
9 a presentation record of the -- of the entire incident.
10 And it is presented to myself, my staff, and the
11 Prosecutor.

12 Q. And who was involved in that meeting?

13 A. Myself, the undersheriff.

14 Q. And his name, please?

15 A. Sorry. Tim Braniff.

16 Q. Okay.

17 A. Chief Dave Pearsall, I believe Chief Brad
18 Watkins, Captain Gordon Phillips. The presenters from
19 Lewis County, who I couldn't tell you all of them who
20 did that, the Prosecutor, Jon Tunheim, I believe the
21 deputy prosecutor, Jeff Lippert. I don't know if -- I
22 can't recall if there was another prosecutor there or
23 not.

24 Q. Was Mr. Toynbee there?

25 A. That -- that would -- that would make sense,



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1 if he was there. He's a -- he's a judge now in Lewis
2 County, so I can't remember. I believe he is the one
3 who -- I believe he was, if you said his name, I believe
4 he was there present.

5 And what happens is that in the presentation,
6 we're briefed on the findings of the incident. And then
7 it is then reviewed by the Prosecutor of the entire --
8 given the entire investigation packet, not just the
9 PowerPoint presentation but the entire packet. And that
10 Prosecutor reviews all of those materials.

11 Q. For what purpose?

12 A. Well, I suppose that in any presentation,
13 however it may appear, maybe there was or isn't -- was
14 or was not things that weren't represented to what the
15 Prosecutor would look at this case or this incident.
16 And the Prosecutor wants to do a thorough investigation
17 to ensure that, at the time, he was doing his job.

18 Q. Okay. So what if there was a determination by
19 you or the Prosecutor that there was some questions left
20 unanswered during the investigation, what would occur in
21 that event?

22 A. Those would be presented to the Prosecutor.

23 Q. By who?

24 A. Well, by the audience that was there, if there
25 was a question about it. There are -- I can't -- can't



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1 reason is is being a SWAT operator, I never fully loaded
2 my magazine all the way to the top.

3 Q. (BY MR. CLOUD:) Your written policy says that
4 they're supposed to carry their weapon fully loaded with
5 one in the cylinder and a fully loaded magazine; does it
6 not?

7 A. Yes.

8 Q. And so therefore, if Ditrich was not carrying
9 a full magazine, he was violating the written policy; is
10 that correct?

11 A. As I said, it's a broad policy. It depends
12 on -- the way I would say or how my policy is, that do I
13 expect a loaded magazine? Yes.

14 Q. And one in the cylinder; correct?

15 A. And one in the cylinder.

16 Q. You do, don't you?

17 A. I do not personally do that, but it's because
18 of my training throughout the years that I do not have a
19 magazine that's topped off to the top with one in the
20 chamber.

21 It is not uncommon for us to have fully, if
22 you will, at-capacity magazines and then one goes in the
23 chamber. Then your mag is not fully loaded, because if
24 you wanted a fully loaded magazine, that means that you
25 would put one in the chamber and then you would eject



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1 And so I do not know, those things that you
2 said I am not aware of.

3 Q. But you exonerated him. Why aren't you aware
4 of that?

5 MR. JACKSON: I object to the form of the
6 question. He didn't find policy violations. There is a
7 difference.

8 But answer it, if you can.

9 A. So exonerating him for being involved in the
10 shooting, he was investigated. The Prosecutor's Office
11 cleared him of any criminal wrongdoing. He was
12 investigated through -- through an IA investigation,
13 internal investigation, and he was found not to have
14 violated any policy.

15 Q. (BY MR. CLOUD:) Okay. So does the
16 Prosecutor's Office routinely determine criminal charges
17 before they get laboratory tests back?

18 A. That part I could not answer. I don't -- I
19 don't know the process of the Prosecutor's Office.

20 Q. What's the point of sending this material into
21 the state crime lab if nobody is going to even read the
22 reports?

23 MR. KAMERRER: Object to the form of the
24 question.

25 MR. JACKSON: I join.



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1 MR. KAMERRER: Object to the form of the
2 question.

3 MR. JACKSON: I object to the form of the
4 question and its compound nature.

5 A. From my understanding, the statements by
6 Deputy Ditrich on how the shots were fired from a moving
7 vehicle when he's standing on the running board, I can't
8 explain what the succession looked like, one after the
9 other or rapid fire. I couldn't explain that. I can
10 say that I do believe that Deputy Ditrich did fire those
11 three rounds, though.

12 Q. (BY MR. CLOUD:) Right. And they're not
13 consistent. So therefore, his story is not believable;
14 is it?

15 MR. JACKSON: I object to the form of the
16 question.

17 A. I don't -- I don't believe that. A -- the
18 evidence that, whether it's collected or not, however it
19 is, I don't know how subjective the evidence is or not.
20 I don't know the preciseness of it. And I'm basing the
21 information based off of what Deputy Ditrich stated.

22 And unfortunately right now, that's what I
23 have, and then the evidence other than that, besides his
24 statement.

25 Q. How come the evidence that was on and in the



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1 vehicle, the patrol vehicle was destroyed by Thurston
2 County?

3 MR. KAMERRER: Object to the form of the
4 question.

5 MR. JACKSON: I join.

6 A. So are you saying -- or, I'm sorry, asking me,
7 are you asking that after all the evidence was collected
8 out of the vehicle and photographed, what I did with the
9 vehicle? Is that what you're asking?

10 Q. (BY MR. CLOUD:) No. Why was the blood
11 splatter evidence specifically removed?

12 A. I'm only surmising, because they were done
13 getting evidence from the vehicle.

14 Q. All right. So let's turn this around. Let's
15 assume that instead of Joel Nelson being killed, Officer
16 Ditrich was killed in the incident. Would you have had
17 the vehicle cleaned, sanitized, repaired and sold within
18 a matter of weeks?

19 MR. KAMERRER: Object to the form of the
20 question.

21 MR. JACKSON: I join.

22 A. I don't know the exact time frame when I had
23 the vehicle removed from fleet. I made it very clear --
24 so with Deputy Ditrich, if he had been killed in that
25 vehicle, I would not have kept that vehicle, either.



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1 But I did not want that vehicle in my fleet. And I made
2 it very clear; you do whatever you want with that
3 vehicle, whether it sits out in the parking lot or
4 whether you sell it, but it is not going back in my
5 fleet.

6 Q. (BY MR. CLOUD:) Why wasn't the evidence, the
7 hood of the car analyzed for gunshot residue before you
8 had it cleaned?

9 A. I can only surmise that the investigation was
10 completed on the vehicle, and that the vehicle was no
11 longer needed.

12 Q. So as we reflect back on your testimony about
13 the investigation heretofore, essentially your -- your
14 decision and the department's decision to exonerate
15 Deputy Ditrich relies solely upon his word on the number
16 of shots he fired; isn't that correct?

17 MR. KAMERRER: Objection.

18 MR. JACKSON: Objection. Well, I join your
19 objection.

20 MR. KAMERRER: I join yours.

21 A. Where -- we looked at it as that, first off,
22 the criminal side, there was found to be no criminal
23 violation by the Prosecutor. When we did our internal,
24 we found no policy violation. So that was the two
25 determining factors.



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1 Now, what I'm saying about the vehicle is if
2 they're done with the vehicle in the evidence process, I
3 did not want that vehicle in my fleet.

4 Q. (BY MR. CLOUD:) Why?

5 A. Why? Because I personally believe that it's a
6 remembrance of how tough our job is. And I don't
7 believe anybody needs that remembrance every day that
8 they drive that vehicle.

9 Q. Weren't you really trying to just get rid of
10 the evidence?

11 MR. JACKSON: I object to the form of the
12 question as argumentative.

13 A. Again, I know that you have an upset father
14 and you're representing him.

15 Q. (BY MR. CLOUD:) We have an upset community.

16 MR. JACKSON: Will you let the witness answer
17 the question, please?

18 A. I believe that a community is upset that law
19 enforcement has to do their job. And it isn't --
20 doesn't always look pretty. There is not always a good
21 result for everybody on that end.

22 I would say that it's unfortunate, it's
23 horrible, and there is no police officer that ever wants
24 to be confronted with that, or an individual who's had
25 to do that in their past, I guarantee you that.



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1 Q. (BY MR. CLOUD:) You've made --

2 A. But I do not -- I want to make clear, this
3 evidence thing that you want to say whether I want to
4 get rid of it, I made it very clear I don't want that
5 vehicle in my fleet.

6 Q. So you made a deliberate choice to destroy
7 evidence of a possible crime involving your Deputy
8 Ditrich, did you not?

9 MR. KAMERRER: Object to the form.

10 MR. JACKSON: I join.

11 A. I made a choice to get rid of a piece of
12 equipment after evidence was obtained from the vehicle,
13 and I said that I'm not using that vehicle again.

14 Q. (BY MR. CLOUD:) Why haven't you considered
15 the possibility that Ditrich committed the crime of
16 manslaughter in the first degree?

17 MR. KAMERRER: Object to the form of the
18 question.

19 MR. JACKSON: I join.

20 A. I would say that I'm not the criminal
21 prosecutor. I've not thought of that since the
22 Prosecutor's Office reviewed all the evidence and
23 determined that there was no crime.

24 Q. (BY MR. CLOUD:) Well, they didn't review all
25 the evidence, did they, because the evidence was not all



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1 Q. So would it be fair to call your relationship
2 a friendly professional acquaintance?

3 A. Friendly, friendly and friends.

4 Q. Okay.

5 A. We are friends.

6 Q. Okay, a little more of a friendship. Okay,
7 all right. What about Deputy Ditrich, what
8 relationship, if any, did you have with him before the
9 incident of January 5th, 2016?

10 A. I've known Deputy Ditrich when he worked for
11 Lacey Police Department.

12 Q. Did you work with him?

13 A. I worked -- we probably showed up on the same
14 calls together, but then he got hired on by the
15 Sheriff's Office, and then we worked together. And then
16 we worked together as -- on the SWAT team together. And
17 I want to say he came in right before I left in the task
18 force, Narcotics Task Force. And then we have camped
19 together before back in the late 90s, early 2000.

20 Q. Family camping?

21 A. Yes, with friends, other friends from the
22 agency.

23 Q. How many times?

24 A. Once.

25 Q. Any social interaction outside of work in the



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1 last ten years?

2 A. No. I met with him in regards to a staffing
3 schedule when I was running for Sheriff.

4 Q. What does that mean?

5 A. The association wanted to propose a 10/40
6 schedule, a shift schedule, because at that time when I
7 was running, we were working a five/two, five/three.
8 Sorry.

9 Q. Could we be a little more clear for the
10 record? So ten -- four tens would be four days and ten
11 hours; is that correct?

12 A. Yes. I apologize. So before we were working
13 five eight-hour shifts, two days off, five eight-hour
14 shifts, three days off.

15 What Rod was wanting to propose was that you
16 work four ten-hour-and-40-minute shifts with -- with
17 four days off, four ten-hour-and-40-minute shifts with
18 four days off, and then ten-hour-40-minute shifts with
19 five days off. And you would have overlapping -- you
20 would have shift overlapping every two -- or two hours.
21 So before you got off, if I got off work at 8:00, their
22 new shift would come on at 6:00 and do that same, so
23 there is always a two-hour where you always had more
24 deputies.

25 And then with that schedule, it was able to



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1 have -- every other Wednesday you would have training
2 days for all your deputies. So it alleviated setting
3 aside training days for mandatory training or something
4 like that. So you always had that opportunity to train
5 during the overlapping Wednesdays or do emphasis.

6 And so that was his proposal. And he was,
7 with the association, wanting to have that and thought
8 that would be a great working schedule.

9 Q. And when did that occur?

10 A. Oh, that was 2010, sometime during that time I
11 was running for Sheriff.

12 Q. Was that proposal adopted?

13 A. Yes, it was adopted I believe in June.

14 Q. Before you got elected?

15 A. No, after I got elected.

16 Q. And did he make the proposal to you before you
17 were elected or after you got elected?

18 A. It was before. It was when I was running for
19 Sheriff. It was a -- the big thing was is how do you
20 get more deputies on the road? And that was one way to
21 be able to do that.

22 Q. Was that something that was originated from
23 the union itself, or was that Deputy Ditrich doing it on
24 its own?

25 A. It was the association pushing for it.



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1 Q. And what was Deputy Ditrich's role in the
2 association?

3 A. I know at one time he was -- well, I thought
4 he was a president of the association, but I know he was
5 in -- part of the bargaining unit. So I couldn't tell
6 you for sure if he was the president or not, but he was
7 in the bargaining unit.

8 Q. So he was some sort of an officer within the
9 union?

10 A. Yes.

11 Q. Do you think he ever was president of the
12 union?

13 A. I'm trying to go back. And I could not tell
14 you whether he was or not, but I know that he was part
15 of the bargaining unit.

16 Q. So he was a leader in the union?

17 A. Yes.

18 Q. Was he a leader amongst the deputies as well?

19 A. I believe he was.

20 Q. Okay. And --

21 A. Still is. Sorry.

22 Q. That's okay.

23 So you're familiar with the concept of Brady
24 evidence, in quotes, in criminal law, are you not?

25 A. Are you referring to the Brady law?



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1 question.

2 A. Well, when you're asked who you are and you
3 lie about who you are, then yes, it is a crime.

4 Q. (BY MR. CLOUD:) Even though the Supreme Court
5 of Washington State has said that that alone is not
6 enough to -- or the Supreme Court of Washington State
7 has said that that alone is not enough to provide
8 probable cause for an arrest?

9 MR. KAMERRER: Object to the form of the
10 question.

11 MR. JACKSON: I join.

12 A. But that wasn't alone by itself.

13 Q. (BY MR. CLOUD:) What was it, what was
14 additional to it?

15 A. Was that the person was being contacted
16 because, as a suspicious person, believing that that
17 individual might be burglarizing or stealing from that
18 residence, or wanting to burglarize, gave Deputy Ditrich
19 a reason to contact the individual and ask him questions
20 about why he's there.

21 Q. Do you believe that Officer Ditrich had
22 probable cause to arrest him when he did arrest him?

23 A. Yes.

24 Q. What was the probable cause?

25 A. False information and not being able to say



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1 why he was there or why he wasn't there, and believing
2 that --

3 Q. What crime has he committed?

4 MR. JACKSON: Counsel, you need to let the
5 witness answer the question. You keep interrupting him
6 before he finishes.

7 MR. CLOUD: I can interrupt him if I want to
8 follow up on a question, and if, for instance, when he
9 puts in an acronym or something else. And I don't
10 believe I'm interrupting him.

11 Q. (BY MR. CLOUD:) But go ahead, finish your
12 answer, if you'd like.

13 A. I believe that, based on the information, that
14 Deputy Ditrich was contacting a person that was looking
15 at wanting to burglarize the residence, steal something,
16 I don't know. But he provided false information.

17 Q. So he was arrested for giving a false name.
18 And you say that that's proper. Is that your position?

19 A. Not --

20 MR. KAMERRER: Object to the form of the
21 question.

22 A. Not the false information part. People lie to
23 law enforcement all the time. That's just not a crime,
24 to lie.

25 Q. (BY MR. CLOUD:) And officers are permitted to



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1 lie to suspects, aren't they?

2 MR. JACKSON: Again, you have interrupted the
3 witness before he's answered the question. Please allow
4 him to finish.

5 MR. CLOUD: In reading his reactions, I
6 thought he was finished.

7 A. Okay. Where -- providing false information is
8 not necessarily a crime, but it is a reason to detain a
9 person, because you believe that other crimes may or --
10 may have been -- may not or may have been committed, so
11 detaining him to find out who -- what his identity is
12 and why he's there.

13 Q. But he was under arrest, he wasn't just
14 detained?

15 A. He wasn't free to leave.

16 Q. The officer had put him under arrest?

17 A. He was under arrest after providing the wrong
18 information about who he was.

19 Q. So you're ratifying his decision to arrest
20 Mr. Nelson for giving a false name, aren't you?

21 MR. KAMERRER: Object to the form of the
22 question.

23 MR. JACKSON: I join.

24 A. No. The question that I have is why didn't he
25 just give his information?



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1 Q. (BY MR. CLOUD:) No, that's not the question.
2 The question is what authority did your officer have to
3 arrest Mr. Joel Nelson on January 5th, 2016? What is
4 the authority?

5 MR. KAMERRER: Objection; asked and answered.

6 MR. JACKSON: And it's argumentative.

7 MR. CLOUD: He hasn't answered it.

8 MR. JACKSON: It's still argumentative.

9 MR. CLOUD: He's got to answer the question.

10 Q. (BY MR. CLOUD:) What's the probable cause?

11 A. That Mr. Nelson may be wanting to commit a
12 crime, may be trying to commit a crime, may be involved
13 in a crime, and the deputy contacted him for that.

14 Q. Why was he arrested?

15 A. He was detained and not free to go because he
16 provided false information.

17 Q. He was arrested at some point. When do you
18 believe he was arrested?

19 A. I believe that he would have been arrested
20 when he decided to obstruct the law enforcement officer,
21 Deputy Ditrich, in his investigation for obstruction,
22 because he provided a name that was not accurate.

23 Q. So you believe that he was properly arrested
24 for giving a false name. Is that your testimony?

25 A. For obstructing.



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1 Q. Is that your testimony?

2 A. Yes.

3 MR. KAMERRER: Objection. It's asked and
4 answered.

5 Q. (BY MR. CLOUD:) And the sole obstructing that
6 he did was giving a false name; correct?

7 MR. KAMERRER: Object to the form of the
8 question.

9 A. No. So I know that whatever person's opinion
10 is of how you're being contacted, the law does state
11 that we're allowed to contact people for suspicious
12 activity. And he believed that Mr. Nelson was
13 committing a bad act. And Mr. Nelson at the time
14 decided not to say who he was.

15 Q. (BY MR. CLOUD:) And for that you say that he
16 was properly and legally arrested under the Constitution
17 of the United States; is that correct?

18 MR. KAMERRER: Object to the form.

19 A. I'm saying he was detained and not free to go.

20 Q. (BY MR. CLOUD:) What's the difference between
21 that and arrest?

22 MR. KAMERRER: Object to the form of the
23 question.

24 MR. JACKSON: I join.

25 A. Well, when you're under arrest means you're



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1 told you're under arrest. Being told you're not free to
2 go, you're not free to go.

3 Q. (BY MR. CLOUD:) Aren't you under arrest when
4 you're not free to go and somebody has a Taser aimed at
5 your butt?

6 A. No.

7 MR. KAMERRER: Object to the form of the
8 question.

9 Q. (BY MR. CLOUD:) That's not under arrest --

10 A. No.

11 Q. -- in your opinion?

12 MR. KAMERRER: Object to the form of the
13 question.

14 A. I said no.

15 Q. (BY MR. CLOUD:) Do you know what probable
16 cause is?

17 A. Yes.

18 Q. What is it?

19 A. I believe that a person has or is about to
20 commit a crime.

21 Q. What crime was he about to do?

22 A. Well, right then and there, possibly
23 burglarize that home.

24 Q. So was there probable cause to arrest him for
25 an attempt to commit a burglary?



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1 A. He was detained.

2 Q. He was arrested.

3 MR. KAMERRER: Object to the form of the
4 question.

5 A. Okay, that's --

6 MR. JACKSON: Counsel, you are arguing with
7 this witness for no purpose.

8 MR. CLOUD: Well, he's talking nonsense.

9 MR. JACKSON: Well, you don't get to make that
10 statement. Your job is to ask him questions, his job is
11 to answer it. You can keep your judgments to yourself.

12 MR. CLOUD: I'm trying to figure out if he has
13 even a basic understanding of the law in relation to
14 probable cause for arrest. And he doesn't apparently
15 have that understanding.

16 MR. JACKSON: Well, if you've already made
17 that determination, then you should move on and ask
18 something else.

19 MR. CLOUD: I'm giving him the benefit of the
20 doubt.

21 Q. (BY MR. CLOUD:) So let's go over this.
22 What's the probable cause, Sheriff Snaza, for the arrest
23 of my client's son?

24 MR. JACKSON: The question has been asked and
25 answered three times.



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1 Q. (BY MR. CLOUD:) Everything you can tell us.
2 Right? Once and for all. What's the justification
3 legally? What's the probable cause for this arrest?

4 A. That Deputy Ditrich believed that Mr. Nelson
5 was or had committed a crime on that property, and that
6 he was being detained to find out who he is and what
7 he's doing there and if he has committed a crime there
8 or not.

9 Q. At what point was Deputy Ditrich -- or at what
10 point did Deputy Ditrich, in your opinion, arrest
11 Mr. Nelson?

12 A. I don't even know if Deputy Ditrich had the
13 opportunity to make an arrest.

14 Q. So you don't believe he was arrested; is that
15 correct?

16 A. I believe he was detained.

17 Q. So you don't believe he was arrested? Tell us
18 whether he was arrested or not.

19 A. Well, at the time, what was he under arrest
20 for?

21 Q. You tell me.

22 A. Well, he was being detained, as far as I
23 understand this case to be.

24 Q. So you don't believe he was arrested at all?

25 A. I believe that once he was found out who he



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1 was and that he had warrants for his arrest out of
2 Lacey, yeah.

3 Q. But your officer had no idea he had warrants
4 for arrest out of Lacey?

5 MR. KAMERRER: Object to the form of the
6 question.

7 A. Then he wasn't free to go.

8 Q. (BY MR. CLOUD:) So essentially, you're
9 sanctioning Officer Ditrich's decision to detain and
10 possibly arrest, depending upon your point of view, Joel
11 Nelson?

12 A. Yes.

13 Q. And you believe that that comports with his
14 training?

15 A. Yes.

16 Q. And you believe that that comports with the
17 Constitution of the United States?

18 A. Yes.

19 Q. And you believe it comports with the laws of
20 the United States?

21 A. The laws of the State of Washington, yes.

22 Q. No, I said the laws of the United States. And
23 I'm going to go into the Constitution of Washington.

24 A. I would say yes, then.

25 Q. And that you believe that Officer Ditrich's



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1 actions complied with the Constitution of the State of
2 Washington?

3 A. Yes.

4 Q. And you believe that the actions of Deputy
5 Ditrich complied with the laws of the State of
6 Washington?

7 A. Yes.

8 Q. And the laws on arrest in the State of
9 Washington?

10 A. On, A, being able to detain an individual for
11 investigation.

12 Q. Pardon me?

13 A. To detain a person for investigation, yes.

14 Q. Well, Deputy Ditrich already said in his
15 statement that he was going to arrest him, and he moved
16 in to arrest him. Did you read that portion of the
17 statement?

18 A. Well, the part is is that when Deputy Ditrich
19 said he was going to arrest him, it didn't say whether
20 or not he told Mr. Nelson that he was under arrest.

21 Q. So you're saying that a person isn't under
22 arrest until the officer says they're under arrest?

23 A. Uh-huh.

24 Q. The actions of the officer do not determine
25 whether a person is under arrest, is that what you're



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1 saying, it's only the words?

2 A. The actions of an officer telling somebody
3 that they're not free to go is where I'm saying that
4 you're not free to go. If you're under arrest, then
5 they'll tell you you're under arrest.

6 Q. And you're not free to go, are you?

7 A. He wasn't free to go once he was contacted.

8 Q. So what's the difference between a detention
9 in your world and an arrest in your world?

10 MR. JACKSON: I object to the form of the
11 question in this world.

12 A. So I can -- we can complete an investigation
13 to --

14 Q. (BY MR. CLOUD:) I wish you would.

15 MR. KAMERRER: Object to the form of the
16 question.

17 A. -- to detain somebody.

18 MR. CLOUD: We're asking him to complete an
19 investigation, if that isn't clear. We are.

20 MR. JACKSON: Why are you arguing with us?

21 MR. CLOUD: Because you guys have completely
22 covered up a potential second-degree murder or something
23 less. And we're not going to stand for it.

24 MR. JACKSON: Can we go off the record for a
25 second?



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1 Q. Okay. And let's see. Where was I? Oh, yeah,
2 I wanted to question a little bit, what is the Thurston
3 County Sheriff's Office Office of Professional
4 Standards?

5 A. That's the IA process that --

6 Q. The internal --

7 A. Internal --

8 Q. -- affairs?

9 A. Like an internal affairs, but we call it the
10 Office of Professional Standards --

11 Q. Okay.

12 A. -- because it goes along with internal affairs
13 documentation, so -- but when I got elected Sheriff, I
14 created this position.

15 Q. Okay. And so describe how that office is
16 organized, the Thurston County Sheriff's Office Office
17 of Professional Standards. Who is in charge of that
18 office?

19 A. The undersheriff, sergeant, there is a
20 sergeant who is the -- who is the, if you will, IA or
21 Office of Professional Standards. And at this current
22 time, it's Sergeant Hirte, but during this time it was
23 Sergeant Ken Clark.

24 Q. Ken Clark?

25 A. Yes, sir, Sergeant Ken Clark. And he was in



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1 charge of this for policy, to decide or find out if
2 there had been any policy violations.

3 Q. Okay. So then if I can rephrase your
4 testimony, then, you're saying that the Office of
5 Professional Standards, through its individual Ken
6 Clark, was responsible for doing the investigation into
7 whether or not policies and procedures of the Thurston
8 County Sheriff's Office were violated by Deputy Ditrich.
9 Is that a fair summary of what you were trying to tell
10 us?

11 A. Yes.

12 Q. Were there any other individuals who were in
13 that particular department as employees or assigned to
14 that department?

15 A. On this, no, there is not. And that
16 individual reports directly to the undersheriff.

17 Q. Okay. So basically, the Office of
18 Professional Standards pertaining to the investigation
19 of Joel Nelson's death consisted of one individual, Ken
20 Clark, who was supervised by Undersheriff Braniff?

21 A. Yes.

22 Q. Okay. And so Mr. Clark was a sergeant at the
23 time; is that correct?

24 A. Yes.

25 Q. And so why did you choose him to do that role?



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1 MR. KAMERRER: Object to the form of the
2 question.

3 MR. JACKSON: I join.

4 A. I couldn't say anything about how the vehicle
5 was examined, just based on the evidence that was
6 gathered and statements given. But I don't know what
7 all it was used for, whether it was reconstruction or
8 not of the incident.

9 Q. (BY MR. CLOUD:) So you have no idea whether
10 there was an accident reconstruction or not?

11 MR. KAMERRER: Object to the form.

12 A. I don't know if one of my reconstructionist
13 guys were there or not.

14 Q. (BY MR. CLOUD:) Why was the door open when
15 Officer Ditrich got out to see Mr. Nelson?

16 A. I couldn't tell you that.

17 Q. That seems kind of negligent to me, I mean, to
18 approach a suspect on the side of the street with your
19 door open and your car running.

20 MR. KAMERRER: Object to the form of the
21 question.

22 MR. JACKSON: I object. It's not a question.

23 A. I don't know what kind of contact Deputy
24 Ditrich thought he was making at first.

25 Q. (BY MR. CLOUD:) Do you tell your deputies



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1 that they can make contact with suspects while
2 they're -- with their door open and their car running
3 and then leave the car door open while they leave the
4 nearby vicinity of the vehicle? Is that proper police
5 procedure?

6 A. I can say that it's not a common thing to do,
7 but it's not something that -- it all depends on the
8 contact, why we're there, what we're doing. The door is
9 open for felony stops. What that turns into I don't
10 know, because it could be anything, but whether we're
11 chasing somebody and we leave the door open or whether
12 we're just out making a friendly contact.

13 Q. So but isn't he saying in this paragraph that,
14 essentially, nobody on the CIIT was in charge of
15 coordinating the gathering of critical contact evidence
16 relating to the vehicles at the scene? Isn't that what
17 he's really saying?

18 MR. KAMERRER: Object to the form of the
19 question.

20 MR. JACKSON: Join.

21 A. Where is that at? I'm sorry.

22 Q. (BY MR. CLOUD:) It's right here. Let me show
23 you.

24 A. Oh, "No comprehensive approach...." Okay.

25 I would disagree. And I'm basing that off of



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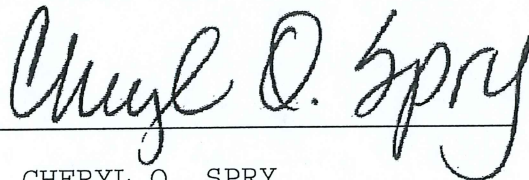
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REPORTER'S CERTIFICATE

I, CHERYL O. SPRY, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were by me duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was requested; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND AND DIGITAL SIGNATURE THIS 1st day of OCTOBER, 2018.



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